

REMARKS

Please note that an Amendment is being filed concurrently herewith in Serial No. 09/966,562 (Docket No. SEA-6-7-US-C) which has the identical disclosure and is also based on PCT/US 00/08354.

It is noted with appreciation that claims 1-14 and 23 would be allowable if amended to overcome the rejections under 35 USC § 112, second paragraph; and that claim 29 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Claims 14, 23 and 29 are accordingly amended as is further discussed below. Reconsideration of the 35 USC § 112, second paragraph rejection of claims 1-13 is requested for reasons discussed below.

Claims 28 and 30-33 all stand rejected under 35 USC § 102. In response, claims 28, 30 and 32 are cancelled. Claims 31 and 33 are amended so as to depend from allowable claims 13 and 14, respectively.

Accordingly, no issues relating to rejections based on prior art remain in the case.

In addition, new independent claims 34 and 35 patterned after claim 1 are presented, and are discussed hereinbelow.

Claims 15-22 and 24-27 were previously cancelled in the subject application, and were included in Serial No. 09/966,562 as filed.

Favorable reconsideration of the application in its presently-amended form is requested.

Claim Rejections - 35 USC § 112

Claims 1-14 and 23 stand rejected under 35 USC § 112, second paragraph as being indefinite. With reference to claim 1, the Examiner asserts "there is no antecedent basis for 'the known upstream volumetric flow rate' and 'the known upstream volumetric flow rate.'" With reference to claim 14, the Examiner points out

that "section)" is unclear, and asserts "there is no antecedent basis for 'the aerosolized mass.'"

In response, a typographical error is corrected in claim 14, by changing "section)" to "section".

In addition, a typographical error is corrected in the last clause of claim 23, by changing "mixing changer" to "mixing chamber."

Reconsideration of the antecedent basis rejections is requested for the following reasons:

In claim 1, support for "the known upstream volumetric flow rate" in the sixth (last) subparagraph is found in the third subparagraph of claim 1, where "a known upstream volumetric flow rate" is introduced. Support for "the known downstream volumetric flow rate" in the sixth (last) subparagraph is found in the fifth subparagraph of claim 1, where "a known downstream volumetric flow rate" is introduced.

In claim 14, support for "the aerosolized mass" in the third (last) subparagraph is found in the second subparagraph of claim 14, where "an aerosolized mass" is introduced.

In view of the foregoing, it is requested that the rejections under 35 USC § 112, second paragraph, be withdrawn.

Specification

The specification is objected to as failing to provide antecedent basis for "mixing changer" in claim 23. The antecedent basis is now correct in view of the amendment to claim 23, discussed above, correcting a typographical error in the last clause of claim 23, by changing "mixing changer" to "mixing chamber."

Support for "mixing chamber" 152 is found on specification page 17, line 6; page 18, line 31; page 19, lines 6-7; and page 22, lines 17-18, as examples. Support for "mixing chamber" 588 is found on specification page 25, lines 32-33; and page 26, lines 19-20, as examples. Support for "mixing chamber" 602 is found on specification page 26, lines 27-30, as an example.

In view of the foregoing, it is requested that the objection to the specification be withdrawn.

Claim Rejections - 35 USC § 102

Claim 28 stands rejected under 35 USC § 102 as anticipated by Pischinger et al No. 4,634,459 and Liu et al No. 6,221,136. Claims 30 and 31 stand rejected under 35 USC § 102 as anticipated by Wellinhoff et al No. 4,801,411. Claims 32 and 33 stand rejected under 35 USC § 102 as anticipated by Postma et al No. 4,029,482.

In response, claims 28, 30 and 32 have each been amended so as to depend from allowable claim 1, and accordingly are now allowable on that basis. Claims 31 and 33 already depend from claims 30 and 32, respectively.

New Claims 34 and 35

New independent claims 34 and 35 are patterned after claim 1, and are directed to embodiments where there is only an upstream mass concentration sensor (with a known volumetric flow rate) (claim 34), or where there is only a downstream mass concentration sensor (again with a known volumetric flow rate) (claim 35).

Briefly, the paragraph of specification page 12, line 24 through page 13, line 6 (paragraph [0053] of Pub. No. US 2002/0033173 of Serial No. 09/966,562 which has the identical disclosure and is also based on PCT/US 00/08354) states that "[f]or purposes of accuracy and precision and on-line quality assurance, ... especially when the aerosol deposition efficiency at deposition zone 300 is less than 100%," both upstream and downstream sensors are employed. However, in cases where deposition efficiency can be assumed to approximate 100%, or where there is no interest or justification in monitoring what gets past the deposition zone, then only the upstream mass concentration sensor is required, as in new claim 34. Alternatively, in the event delivery to the deposition zone is determined by some other means, but where it may be desirable to

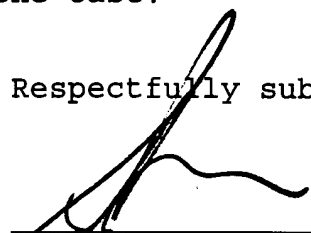
determine what gets by the deposition zone for example for environmental purposes, then only the downstream mass concentration sensor is required, as in new claim 35.

Further support for new claims 34 and 35 is found on specification page 11, line 7 through page 12, line 7 (paragraphs [0042] - [0045] of Pub. No. US 2002/0033173) surrounding equations (1) and (2); as well as on specification page 7, lines 8-26 (paragraphs [0032] - [0031] of Pub. No. US 2002/0033173).

Conclusion

Reconsideration and allowance are requested. Claims 1-14, 23, 29, 31 and 33-35 are in the case.

Respectfully submitted,

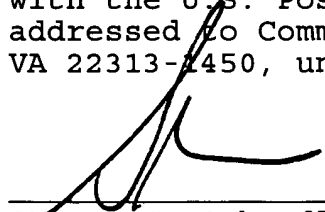


Steven C. Schnedler
Attorney, Reg. No. 27,591

Carter Schnedler & Monteith, P.A.
56 Central Avenue, Suite 101
P.O. Box 2985
Asheville, NC 28802

Telephone (828) 252-6225

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, under the provisions of 37 CFR 1.8.



Steven C. Schnedler

Date